

Bondger



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July 13, 2007

Mr. Bruce Wolfe, Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Preliminary Comments on May 1, 2007 Administrative Draft Version of
Municipal Regional Permit

Dear Mr. Wolfe:

This provides our comments on the revised administrative draft of the Municipal Regional Permit (MRP) that your staff distributed for comment at the beginning of May. This version of the administrative draft MRP is much better organized and understandable than the previous version distributed for comment in October 2006. These clarifications make it even more apparent than it was last fall that the MRP needs substantial work in terms of optimizing, prioritizing, and phasing in permit requirements. The drafting of the MRP should identify what needs to be accomplished over several five-year NPDES permit cycles so that a realistic amount of work is scheduled for completion during each permit period.

As a background to these comments, we acknowledge the efforts of your staff to make a few changes in the MRP compared to the previous version. We also appreciate the willingness of your staff to meet with representatives of the Bay Area Stormwater Management Agencies Association (BASMAA) and other stakeholders to informally discuss how to best achieve our shared objective of improving water quality.

We support the comments provided by BASMAA and the San Mateo Countywide Water Pollution Prevention Program. In addition, we reiterate our comments submitted on the October 14, 2006 version of the MRP because they are still applicable. The following lists some examples of specific, proposed permit requirements that are unnecessarily onerous considering any possible water quality benefit they would provide.

1. The administrative draft permit contains excessive reporting requirements. The permit would require dozens of new information tracking efforts, the creation of numerous new databases, and an overwhelming amount of reporting that will not result in any improvement in water quality. The more time that municipal staff has to spend on reporting the less time they have to work on activities that help to improve water quality. We recommend that a high priority of further stakeholder discussions be on how to create a better balance between reporting and implementing pollution prevention and control activities.
2. The many new requirements proposed for new and redevelopment projects should be postponed for five or more years for possible consideration during subsequent reissuances of the MRP. Once sufficient experience has been acquired with implementing the existing new and redevelopment requirements there will be a rational basis for deciding if any additional refinements in the regulatory requirements are worthwhile:
 - a. The proposed expansion of the existing permit's requirements to cover the replacement and rehabilitation of arterial roads is unsupported by any technical information. If this requirement is adopted, the limited funds that municipalities have to repair and maintain roads will be further reduced as funds will need to be diverted to constructing stormwater treatment for arterial roads that are "demolished and re-built from the gravel base up" (Provision C.3.b.i.(4)). The issue of how to regulate roads was extensively discussed and an agreed-to solution included in the existing Provision C.3 permit amendment that was adopted in 2003.
 - b. The administrative draft MRP proposes starting three years after permit adoption to reduce the threshold for the amount of impervious surface created and replaced that triggers the requirement for stormwater treatment measures from 10,000 square feet to 5,000 square feet. At the November 2006 Water Board staff workshop the Water Board staff provided information that the existing permit requirements are already capturing about 97% of all of the impervious surface area created and replaced in the cities it sampled, and the remaining projects are almost exclusively single-family homes. We believe that this information supports keeping the existing threshold at 10,000 square feet.
 - c. The proposed requirement to collect additional information on the amounts of impervious surface being generated for projects as small as 1,000 square feet would place an unnecessary burden on municipal staff. In addition, the proposed reporting requirements are excessive covering one page of the administrative draft MRP. It is unclear why this information is needed. If specific questions that need to be answered can be identified, the optimum method of obtaining the answers could be found. Undertaking a focused special study would be a more efficient way to answer specific questions than to require extensive additional data collection by each municipality.
 - d. The hydromodification management requirements for SMCWPPP's municipalities were adopted as an NPDES permit amendment in March 2007 following numerous meetings and discussions with Water Board staff during the preceding six months. The proposed MRP would further modify these permit requirements, in part, by deleting a number of important exclusions contained in the existing permit. The existing permit excludes the hydromodification management requirements from applying to transit village types of developments, housing projects affordable to low or moderate incomes, and projects within "Redevelopment Project Areas" that redevelop an existing brownfield site. These important exclusions should be retained in the MRP.

Mr. Bruce Wolfe

July 13, 2007

Page 3 of 3

3. The additional proposed MRP requirements that affect municipal maintenance activities are in some cases unjustified and would result in an inefficient use of a municipality's limited funds for maintaining parks, streets, storm drains, and pump stations.
 - a. The proposed requirement to use "efficient street sweeping methods that are capable of removing fine particulates" and the requirement that "at least 75% of the sweepers replaced during the Permit term shall have the particulate removal performance of regenerative air sweepers or better" is unnecessary. Municipalities should be allowed to purchase, lease, or hire whatever types of street sweeping equipment that they prefer given the local conditions of their streets and other site-specific considerations. Considering the emphasis the MRP puts on improving trash control, it is inconsistent to require that the street sweepers used focus on their ability to remove fine particulates.
 - b. The proposed requirement that all low priority streets be swept at least twice before the onset of the wet season is misguided in some areas. In some of the smaller towns within San Mateo County many of the streets do not have curbs. Sweeping streets that do not have curbs will just push pollutants off of the road and should be exempted from any street sweeping requirements.
 - c. The proposed requirements would require that pump stations be maintained to meet water quality objectives, that each pump station be inspected at least four times annually for water quality problems, and that trash racks and oil absorbent booms be inspected during or within 24 hours of significant storm events. In addition, the permit would require monitoring of the dry weather flows from 20% of the pump stations that include the largest catchments. It is unclear what the basis of these requirements is and what particular questions they are intended to answer. The proposed requirements that municipal staff inspect pump stations at specific times are overly prescriptive.
 - d. The proposed requirement that stream crossings and drainage culverts will be rehabilitated "to reduce erosion, provide fish passage and maintain natural stream geomorphology" is vague and goes beyond the requirements of the federal Clean Water Act. The hydromodification management requirements adopted as an NPDES permit amendment in March 2007 are designed to help protect and maintain creek channel morphology, and these new requirements should be implemented for a period of five or more years before the possible need of upgrading specific culverts is evaluated.

We appreciate your consideration of our concerns. If you have any questions please contact Elizabeth Claycomb, Project Coordinator at 650-738-7361.

Sincerely,



Stephen A. Rhodes
City Manager